VILLAGE OF NORTHPORT
PLANNING COMMISSION
116 W. Nagonaba St.
Wednesday, September 28, 2022
Draft MINUTES

Note: upon request a Zoom recording is available for this meeting.

Call to Order, Roll Call

Chair Arbury called the meeting to order at 9:08 a.m.
Members present: Arbury, Cavendish, Newell, Gale, Wessell, and Woomer. Excused Absence: Caudill

Public Present

Karl Wizinsky

Staff Present

Zoning Administrator- Joni Scott
Guest - Wade Trim Planner - Arthur Mullen

Approval of Agenda

no additions or revisions

Correspondence

none

Public Comment

none

Zoning Amendments - Work Session and Discussion Items:

A - Lot Dimensions/Setbacks:
Arthur explained that the revisions Wade Trim made to dimensions and setbacks, was really just a starting point, and were selected by reading the district description and then reviewing the parameters and adjusting so they closer align with the description of the zone. He also explained that they then took all the zones parameters and compared them to each other, to ensure that they still made sense, and that they each vary to represent the different zones.

D1 Development:

- Wade Trim recommended a minimum lot area of two acres, commissioners were looking to make that one acre.
- The commissioners reasoning behind this was that most lots in that zone, aren't that large.
- Arthur urged commissioners to consider what we want to see in the district, not what is there.
- Commissioner Cavendish clarified that commissioners concern is that if the majority of the undeveloped lots are less than two acres, and therefore would require variances to develop, does that zoning change make sense.
- ZA Scott also added that in the tour with Chip Smith (*Wade Trim form base code planner for the village*) there was discussion that it would be nice to see some smaller developments in that district.
- Chair Arbury asked if that means that perhaps we need to divide and create two zones in that district, one that is industrial and larger, and one that is more commercial and smaller lots.
- Commissioner Gale asked if the location that far north is capable of attracting any large businesses, to

warrant the larger lot size.

- Arthur Mullen clarified that size requirements would only be an issue if you were spliting parcels, that if it's non-conforming for size but just needs developed, it would just need to meet the setbacks outlined, which from his perspective is still reasonable.
- Commissioners agreed that analysis, and now agreed with the Wade Trim recommendation of two acres.

R2 Village Residential on the shoreline:

- Commissioner Woomer discussed leaving the side setbacks at 20' total, no less than 8' on one side, even if the minimum lot width dimensions decrease, as proposed.
- Commissioner Gale referenced previous discussions over shoreline overlay districts. Chair Arbury asked if an overlay district is the only way to assign different setbacks to those lots?
- Arthur Mullen shared that we could split off the parcels in question and create a new R2-2 district to address it. He explained that an overlay district can give you more control, but only works if all underlying ordinances still apply, and you're adding more restrictive guidelines to those areas. In this case, we do not want it to be more restrictive, but rather allow some aspects not currently permitted in R2, therefore creating a new district R2S (R2 Shoreline) might be the most straightforward solution.
- Due to the nature of the R2 lots along the shoreline we also want to allow the garages to be facing to the street and be closer than the home, whereas the zoning in R2 states it can't be closer than the residence.
- Chair Arbury asked if we should consider views of the bay on the shoreline, and if because of that, is it another reason to keep the side setbacks as is, so that we preserve some view of the bay?
- Commissioners decided creating a new R2S district that includes all current R2 parcels on the shoreline seemed to be the right solution to the issues at hand. It will retain most of the R2 zoning requirements, but will allow accessory structures in front of the primary residence, will decrease the front setbacks to allow closer placement of accessory structures to the road, but will keep the existing side setbacks of 20ft(8ft).
- Commissioner Gale feels we could be consistent with the Township shoreline setbacks which are 40 ft for residential zones.

R1 Rural Residential:

- Minimum lot area recommended at two acres approved.
- Minimum lot width recommended at 150ft, but we want it to be 200ft.
- We also felt the front setback could be 45ft, not the 75 ft recommended, so there can be shorter driveways.

R2 Village Residential:

- Rear yard recommendation was 25ft but we want 20ft.
- Sideyard recommendation was 15ft total no less than 5ft per side. Most commissioners commented that they preferred 18ft total and 5ft minimum. Commissioner Woomer felt they shouldn't be changed at all and should remain as they are now, 20ft(8ft), to force the designs of the homes toward the back of the lot, possibly encouraging parking behind your home, and green space between driveways.
- Commissioner Cavendish pointed out that the reason we were reducing side setbacks was because we are reducing the minimum lot width from 100ft to 50ft. Therefore, if we leave them as is, on a 50ft lot you only have 30ft to build in, including all decks and overhangs. Previously with the 100ft width minimum, you would have had 80ft or 80% of your frontage to work with, so even bringing it down to 15ft on a 50ft lot, only gives you 35ft to work with, or only 30% of your frontage you can use, which is already a lot less buildable area.
- Commissioners also explained that keeping it at 18ft(5ft) was because the recommended change for

definitions requires a 12' driveway. Arthur Mullen realized that recommendation was from former village ZA Fuller, and Arthur felt that we should not require driveways to be that wide. He explained that they do not need it and if we are striving to encourage density, we should allow more compact drives. Arthur Mullen recommended we change our driveway definition to require a minimum width of nine feet.

- Commissioners agreed to change the driveway definition to require a minimum of nine foot driveway width.
- Commissioner Woomer also wanted to discuss where cars will be stored or parked, and wants to see if we can put additional thought to vehicle storage, particularly if people are building ADUs.
- Motion to adopt the R2 sideyard setback recommendations of 15ft total, with no less than 5ft on a side, **moved by** Commissioner Newell, **seconded by** Commissioner Gale. **Roll call vote:** Yeas: (5), Nays(1) Commissioner Woomer, Absent (1) Commissioner Caudill. **Motion Carried**

R4 Multi-Family Residential

- Commissioners would like a minimum lot width of 45ft, versus the 40ft recommendation.
- Side setbacks 18ft and 5ft versus Arthur Mullen's recommendation of 14ft and 4ft.

B - Accessory Dwelling Units (ADU's):

ADU zoning applies in a number of articles throughout the zoning. We are viewing this in terms of our desire to encourage ADUs as a way of increasing long term housing options.

ADU STR(Short Term Rental) Caps

- Do we have concerns over lots of ADUs being built to be STRs?
- Should we consider capping STR ADU developments? Commissioner Gale felt the best approach might be to build a STR cap percentage into the village ordinance.
- Chair Arbury and Commissioner Gale discussed the Michigan legislature session and the still unknown fate of the STR bill that would restrict our ability to regulate STRs. However, their recollection was that even that bill set the max cap at 30%, so we could go with that number and be safe either way.
- Arthur shared that we can write in ADUs as a special land use approval or a use by right. If we went with special use then we could put in any approved proposals that it can not be an STR, but if we want to encourage ADUs then we likely want to allow by right, and then look to licensing for regulating. Arthur wanted to stress that statistically ADUs don't just take over quickly, so having a cap may not be necessary. The idea of ADUs is to create more housing options. Commissioner Newell asked if we should allow them as a use by right in some zones and as a special use in others.
- Do we believe there should be owner occupancy in one or other of the dwellings on the property? Commissioners tend to feel that it would make sense to require that owners occupy one or the other on the property. Commissioner Cavendish asked if there was a way to require that if there is an ADU and a primary, that both can't be STRs, but that at least one is a long term renter, or owner occupied. Commissioner Gale reiterated that she likes the idea that either the ADU or primary residence is owner occupied, but does not feel we should require which the owner lives in. ZA Scott shared that she is thinking about putting in an ADU to rent out monthly on her STR property and if the owner-occupied rule were implemented, it would prevent developments such as that. Commissioner Cavendish repeated her previous thought, that perhaps it doesn't have to be owner occupied, but that it can't have both dwellings functioning as STRs, at least one of them must be owner-occupied or a long term renter. Commissioners all agreed that the primary and ADU structure can not both be STRs.
- Commissioner Newell shared concerns that though it might be built as an ADU for long term rental, what stops it from becoming an STR in the future. He also felt that either way you could have problems. He felt that we should revisit and village nuisance ordinance, to help address when their are issues.
- Commissioner Cavendish mentioned that some communities give incentives to property owners if

used for long term rentals, and that going at it from that direction, as a positive, might be a better approach. Rather than punish or set roadblocks for STRs, perhaps invest in making long term rentals more appealing or advantageous to the property owner.

- Chair Arbury pointed out that she wasn't in favor of putting in ordinance language that we don't plan to enforce, she also feels that if we put it there now when there aren't issues, but then issues arise, at least it would already be there to use.
- Chair Arbury then asked if it makes sense for that to then go in zoning, or does it need to be in the village STR ordinance. Arthur felt that it likely wouldn't be effect as zoning, because once something is out of conformance, but already built, there is little the zoning can do down the road. Whereas, a village ordinance and regulations could be helpful in possible issues. Chair Arbury then asked if we could insert some of the language into the definition of ADUs. Commissioner Cavendish worried that since we want to say that ADUs can be long term rentals or owner-occupied or STRs - that could make the definition difficult to craft without being able to be interpreted in multiple ways, which isn't helpful.
- Commissioners agreed to limit parcels to one ADU per primary dwelling.

Compatibility

- Commissioners asked Arthur Mullen to help with language on ADU compatibility and where to put it.
- Commissioner Woomer shared he has concerns over the appearance of ADUs and the minimum sizes, he doesn't want to see single-wide trailers allowed.
- Chair Arbury discussed that she has researched a number of ways to deal with ADU appearances. Boyne City has ADU plans available that people can use. Traverse City states that the structure must be compatible or match the primary dwelling. ZA Scott suported the idea of requiring it to blend with the existing home or structures. Commissioners agreed that the appearance of compatibility is desired.

Parking with ADUs

- Chair Arbury felt that we did need to put some thought into whether off-street parking requirements should be included with ADU approvals, but mentioned that requiring that goes against a lot of what she has researched on ADUs. She does concede that in our town, due to our location and isolation, most people do own a car, so we likely do want parking provisions. Arthur shared that if we want to encourage ADUs, then adding parking requirements can make that more difficult to achieve, and therefore could hinder residents from building them. However, he also understands that it may be necessary given our community and location.
- Discussion on how do we calculate the parking requirements? Should they be based on bedrooms or should we just require one parking spot per ADU?
- Commissioner Woomer's is concerned that an STR ADU could have 4 vehicles in the front lawn and wants to require that parking be designed and provided and that it be behind the house so you don't see it from the road and that it is more aesthetically pleasing. He feels that if the lot is too small to provide off-street parking they should not be allowed to build an ADU on that parcel.
- Commissioners discussed what parking regulations are currently for single-family homes: two spaces per dwelling unit. Bed and Breakfasts: one space per rented room plus two for the resident family.
- Commissioner Woomer asked why all the existing parking requirements were being removed. It was clarified that all that information is moving into a new chart and Arthur Mullen explained that the existing chart was based on data from about 1985 and they're recommending we implement a whole new table with the recommendations from the institute for transportation engineers.
- Commissioners concluded that ADUs would require one parking spot, in addition to the existing two parking spot requirement for the primary residence. They will be allowed as a use by right in all residential and commercial zones.
- Commissioner Woomer asked if we could add another requirement that the construction somehow excludes mobile homes and RVs. Arthur Mullen clarified that anything on wheels is not actually a

structure and therefore can't be an ADU. Arthur recommended that we leave specific details like this, to ZBA's, or the ordinances get too burdensome.

ADU Size Requirements

- Should ADUs have size requirements, and can they exceed the size of the primary? Commissioner Cavendish referenced the existing General Provisions that require an accessory structure to be shorter, but doesn't have a square footage requirement or restriction.
- Commissioners agreed to keep the language stating that the height of accessory structures and dwellings still can not be taller than the primary structure. This would then allow anyone that wants to put in a taller structure or dwelling to file a variance and it can be reviewed for compatibility etc, instead of having to be allowed no matter what because its a right by ordinance.
- Should there be a limit on how many ADUs you can put on a property? ZA Scott and Commissioner Cavendish agreed they did not think there was a limit to how many accessory structures you can build on a parcel, as long as there is a primary structure.

Other ADU Requirements

- Commissioner Cavendish asked if the ADU definition should include requirements for what qualifies it as a dwelling. She feels that it should require a washer/dryer hookup as required by construction code, but also should require a kitchen with a stove, so that a dinette or mini fridge is not considered a kitchen. Her thinking being that if we want to encourage long term use or rentals of ADUs then we should encourage ADUs that are fully functioning dwellings.
- Chair Arbury suggested we add to the ADU definition as discussed, but also wondered if we should define the word kitchen. Commissioner agreed, and decided that a kitchen should include a refrigerator, a sink, and cook-top range.

ADU Setbacks

- Should we think about changing setbacks to help encourage ADUs?
- It was discussed that perhaps under general provisions we needed to add another item, that then separates the setback exceptions for accessory structures, from accessory dwellings.
- Arthur stressed that their recommendation of smaller rear setbacks and the exception for accessory structures is to work to eliminate dead space on the back of a property.
- Commissioner Cavendish shared that her understanding from repeated public comment is that many of the residents concerned about the accessory structure setbacks are people with waterfront or near waterfront property. The reason this is an issue, is that if you are a waterfront property and you have to use the district setback requirements on a primary structure, your neighbors will likely still have sight lines to the water. If you allow an accessory structure or dwelling to have an exception that allows for 3ft on the back and side, then now you have blocked all the view that is not allowed with a primary.
- Commissioner Woomer feels that ADUs on waterfront need to be on the street-side, not the water-side. Gale suggested putting it as a requirement in the R2S zone and have it off the front yard setback. Arthur is creating a definition for waterfront line and that should also help with this.

C - Planned Unit Developments (PUD's):

Arthur Mullen starting by prefacing that he has a personal vendetta against PUDs because he finds that they really subvert the zoning ordinance. He feels it allows developers to dictate their demands, and push for higher density.

- In our community allowing PUDs down to one acre would essentially create spot zoning.
- He doesn't believe that a PUD district is required under the State Enabling Act.
- Arther recommended that if we want to keep the zone, we increase the acreage so it requires larger lots.

ZA Scott asked if there was a way write it to apply not just to residential, which is how it is currently worded, to include commercial uses as well. Mullen shared that some communities do have PRDs (*planned residential development*) & PCDs (*planned commercial development*). He elaborated that he feels PUDs are something that was used a lot during the suburban spread in the 1980-2000s, and isn't necessarily the best policy for communities. He feels in our CR and C1 district our lots are small and can therefore be handled by driving the form that we want.

C - Zoning Map District Changes:
ZA Scott asked for advice on how to handle a couple specific properties in town:

- A property in the village near the golf course, that was a planned and approved PUD some time ago, that started initial construction phases but wasn't completed and has therefore reverted back to R2.
- The former hospital property in R4 will be demolished and the developers may want to include commercial within a new build. Should that be applied for as special use, or a change in zone, or what are his thoughts?

He felt that since both of these properties are over five acres perhaps we do leave in the PUD zoning, but bump up the minimum size to five acres. Chair Arbury asked what size acreage the commission is comfortable with. ZA Scott recommended 3 acres.

Commissioner Cavendish suggested reviewing where PUDs are currently allowed by special use: R1, R3, R4, and D1 lots that are at least one acre. This led to discussion that perhaps R2, which includes the village 7th Street property, should also allow PUDs by special use. Commissioners proposed that we increase the size required for a special use PUD to a minimum of five acres as recommended by Arthur and now allow it in R1, R2, R3, R4, and D1, but NOT R2S.

Commissioner Cavendish then explained the commission's concern and question about the R4 district south of town. She explained that the definition of the R4 zone, does not fit with the location it's applied to on the south edge of town. It defines it as medium-high density, and we don't feel it's appropriate to develop high density on the outskirts of town, and more importantly there is no infrastructure that far south.

Commissioner's question is - rather than change the definition of R4 (*because that definition still works for other R4 zoned lots*), does it make more sense to change the parcels in question to R1 - rural residential, since that definition is more in line. Arthur felt that changing that zone made perfect sense, but the problem is our Future Land Use(FLU) map doesn't show or follow that thinking. They always recommend not making any zone changes unless they align with your FLU map, the courts have been pretty strong to not allow that. You're restricting personal property rights significantly with zoning, the only reason the courts allow it, is because you've said and confirmed in your master plan that you're promoting the health and welfare of the community. He said we could make an amendment to the master plan and the FLU, and then follow up and change the zoning. However, since we are about to go into the five year review you could propose and include these revisions in your review.

D - Signage:
Chair Arbury asked if there is language we could include to preclude formula businesses through signage. Arthur asked if we are concerned about signage in D1 - since that is the only zone that allows formula businesses. Signage sizes are already zoned to prevent overly tall or large signage.

Chair Arbury asked if we could eliminate formula businesses. Commissioner Gale commented that we

probably need to be careful how we define formula businesses because the Mitten has three locations, Tom's has multiple, Huntington has multiple locations, Find North has another location. Commissioner's agreed and discussed that we might possibly need to revisit the formula business and restaurant definition.

Arthur Mullen clarified that they often recommend signage regulations be in a village ordinance because, if you put all signage regulations in your zoning, once a sign is installed, it becomes legal non-conforming, and any changes to zoning moving forward can't be applied to it.

Commissioners concluded that they needed to research the formula business issue a bit more. Arthur is going to research it more, and come back with further thoughts. Will be added to a future meeting with perhaps a better understanding of how other communities are handling it, or differing in their definitions of formula businesses.

Adoption Procedure:
Arthur Mullen was asked to review the procedure of adopting the zoning amendments and if they felt we could send some articles of the completed revisions/amendments to council for approval, without having to wait for the completion of the form based code portion.

Commissioner Cavendish explained that the revisions to zoning have been a very long time coming. She stressed that there are issues with language in the current zoning, that has, and is, allowing things to be built that we no longer want occurring. Her concern, the communities concern, the ZAs concern is that we get some of these amendments implemented as soon as possible. She asked if there is a way or if its logical to at least amend the definitions and the general provisions.

Arthur Mullen responded that if the village wants to get some of the amendment process started now, they can do that. Process is as follows:

- Public Hearing is held at a PC meeting and PC approves and recommends to village council.
- Village Council can then approve as presented, approve with their own amendments, or send back to the planning commission to amend.
- After council approves the amendments it goes to the County Planning office and they have a period to review and they send comments, but they can not make their own changes.

Commissioners agreed that they would be more comfortable moving forward with at least Definitions and General Provisions amended, and Commissioner Gale felt it also might make it easier for the council to review and understand if it were broken into manageable chunks.

Public Comment:

Karl Wizinsky, commented that he has watched a lot of hardworking people and staff at the township and village spending thousands of hours over the last five years completing duplications of work for 2200 people. He shared shrinking census statistics over the year and feels that having two governments isn't sustainable. He feels neither government body is doing a good job, despite the hard-work and intentions.

Commissioner Comments:

Chair Arbury, suggested commissioners check out the dropbox on the web site, it's more organized and she really likes it.

Adjournment:

12:09pm Motion to Adjourn - **moved by** Commissioner Newell, **seconded by** Commissioner Wessell, **motioned carried**

Next Regular Meeting - Wednesday, October 19th, 2022 at 6pm

Respectfully submitted,
Laura Cavendish, Secretary

** all documents are in the Village Zoning Ordinance with Amendments tab under Planning Commission Documents on website: villageofnorthport.net/planning-commission/*